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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
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9 Tad Ryan Brown, No. CV-24-01284-PHX-JZB  
10 Plaintiff,  
11 v.  
12 Unknown Party,  
13 Defendant.  
14

15 This matter was assigned to Magistrate Judge John Z. Boyle. (Doc. 3). On March  
16 31, 2025, the Magistrate Judge filed a Report and Recommendation with this Court.<sup>1</sup>  
17 (Doc. 19). The Magistrate Judge has recommended that this action be dismissed for  
18 Plaintiff's failure to timely serve the Defendant<sup>2</sup> and for failure to comply with the

19 <sup>1</sup> This case is assigned to a Magistrate Judge. However, not all parties have  
20 consented to the jurisdiction of the Magistrate Judge. Thus, the matter is before this Court  
pursuant to General Order 21-25, which states in relevant part:

21 When a United States Magistrate Judge to whom a civil action has been  
22 assigned pursuant to Local Rule 3.7(a)(1) considers dismissal to be  
23 appropriate but lacks the jurisdiction to do so under 28 U.S.C. § 636(c)(1)  
due to incomplete status of election by the parties to consent or not consent  
to the full authority of the Magistrate Judge,

24 **IT IS ORDERED** that the Magistrate Judge will prepare a Report and  
25 Recommendation for the Chief United States District Judge or designee.

26 **IT IS FURTHER ORDERED** designating the following District Court  
27 Judges to review and, if deemed suitable, to sign the order of dismissal on  
my behalf:

28 Phoenix/Prescott: Senior United States District Judge Stephen M.  
McNamee

<sup>2</sup> Plaintiff requested a subpoena to ascertain the identity of Defendant and filed proof of

1 Court's orders. To date, no objections have been filed.

## 2 STANDARD OF REVIEW

3 The Court "may accept, reject, or modify, in whole or in part, the findings or  
4 recommendations made by the magistrate." 28 U.S.C. § 636(b)(1)(C); see Baxter v.  
5 Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991). Parties have fourteen days from the  
6 service of a copy of the Magistrate's recommendation within which to file specific  
7 written objections to the Court. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 6, 72. Failure to  
8 object to a Magistrate Judge's recommendation relieves the Court of conducting *de novo*  
9 review of the Magistrate Judge's factual findings and waives all objections to those  
10 findings on appeal. See Turner v. Duncan, 158 F.3d 449, 455 (9th Cir. 1998). A failure to  
11 object to a Magistrate Judge's conclusion "is a factor to be weighed in considering the  
12 propriety of finding waiver of an issue on appeal." Id.

## 13 DISCUSSION

14 Having reviewed the Report and Recommendation of the Magistrate Judge, and no  
15 Objections having been made by any party thereto, the Court finds dismissal to be  
16 appropriate. The docket shows that Plaintiff sought and was provided permission to serve  
17 third-party subpoenas in order to ascertain the identity of the appropriate defendant in  
18 July of 2024. (Doc. 16). Plaintiff filed proof of service of the subpoenas on August 16,  
19 2024. (Doc. 17). Plaintiff then made no more filings and sought no further extension of  
20 Plaintiff's time to effect service pursuant to Federal Rule of Civil Procedure 4(m). On  
21 November 16, 2024, the Magistrate Judge ordered Plaintiff to show cause why this matter  
22 should not be dismissed for failure to effect service. (Doc. 18). Plaintiff made no  
23 response. Nearly four months later, the Magistrate Judge issued the instant Report and  
24 Recommendation that this action be dismissed for Plaintiff's failure to serve and failure  
25 to follow the Court's orders. (Doc. 19). As Plaintiff has made no objection or responded  
26 in any other fashion to the Report and Recommendation, the Court finds that this matter  
27 should be dismissed and hereby incorporates and adopts the Magistrate Judge's Report

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28 service of such subpoena on XXX. Thereafter, Plaintiff made no additional filings.

1 and Recommendation.

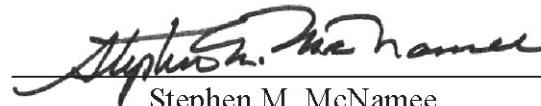
2 **CONCLUSION**

3 Accordingly, for the reasons set forth,

4 **IT IS ORDERED** adopting the Report and Recommendation of the Magistrate  
5 Judge. (Doc. 19).

6 **IT IS FURTHER ORDERED** dismissing without prejudice Plaintiff's claims  
7 for failure to effect timely service and for failure follow the Court's orders.

8 Dated this 5th day of May, 2025.

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11 Stephen M. McNamee  
12 Senior United States District Judge

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